

REMARKS

At the outset, applicants thank Examiner Collins for her time and consideration of the present application at the interview with the undersigned. During the interview, the issues raised in the outstanding Official Action were discussed.

In the outstanding Official Action, claims 49-56, 66 and 68 were rejected under 35 USC 112, first paragraph, for allegedly not satisfying the written description requirement.

In imposing the rejection, the Examiner argues that the nucleotide sequences that are disclosed in the present specification were obtained from a single plant species, which encode AP2-domain transcription factors that comprise a single AP2-domain, and which are notably expressed in response to jasmonate treatment of *Catharanthus roseus* cells. Accordingly, the outstanding Official Action contends that the specification does not satisfy the written description requirement.

However, applicants note that claims 1-73 have been canceled. New claims 74-88 have been added. All of claims 74-88 are directed to a *Catharanthus* plant cell. *Catharanthus* is a genus of eight species of herbaceous perennial plants, seven endemic to the island of Madagascar, the eighth, *C. pusillus*, from India and Sri Lanka. Thus, the recited cells are directed to a well-characterized genus which encompasses *Catharanthus roseus*. The Official Action fails to provide any evidence as to

why one skilled in the art would not be in possession of this genus at the time the application was filed.

Indeed, the description as filed is presumed to be adequate, unless or until sufficient evidence or reasoning to the contrary has been presented by the Examiner to rebut the presumption. *In re Marzocchi*, 439 F.2d 220, 224, 169 USPQ 367, 370 (CCPA 1971). Thus, the Examiner has the initial burden of presenting by a preponderance of evidence why a person skilled in the art would not recognize in applicant's disclosure the invention defined by the claims.

As to the AP2-domain transcription factor, the broadest claims refer to the AP2-domain as having an amino acid sequence of at least 90% amino acid identify with SEQ ID NO: 6. While the Official Action on page 4 states that the claims contain numerous undisclosed and uncharacterized sequences obtained from any source that encode AP2-domain transcription factor, this is not true. The claims recite at least 90% amino acid identify with SEQ ID NO:6. Beginning on page 11 of the specification the AP2-domain and its structure and functional properties are described in detail. Accordingly, it is believed that one of ordinary skill in the art at the time the application was filed would have recognized that the inventors were in possession of the claimed invention.

In view of the above, applicants respectfully request that the rejection be withdrawn.

Claims 49-56, 66, 68 and 73 were rejected under 35 USC 112, first paragraph, for allegedly not satisfying the enablement requirement. This rejection is respectfully traversed.

As noted above, the broadest claims recite that the cells are directed to *Catharanthus* cells. Furthermore, the AP-2 domain transcription factor comprises at least one AP-2 domain having an amino acid sequence of at least 90% amino acid identify with SEQ ID NO:6.

While the Official Action refers to MEMELINK J. et al. in support of the enablement rejection, applicants note that the claims are directed to modulating TIA levels in a plant cell. The claim is not limited to increasing a specific TIA. Indeed, a decrease in one specific TIA can also be desirable. For example, limiting unwanted TIAs is often accompanied by an increase in the TIA of interest, as they compete for enzymes in their substrates. Hence, the word modulating is used. Accordingly, applicants' position is that one of ordinary skill in the art would be capable of practicing the claimed invention.

In view of the above, applicants believe that the Official Action still fails to satisfy its burden in showing that the claimed invention is not enabled by the present disclosure.

In view of the above, applicants respectfully request that the rejection be withdrawn.

Claims 49 and 66 were rejected under 35 USC 112, second paragraph, as allegedly being indefinite for reciting the term

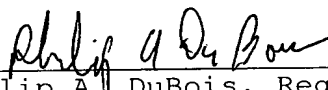
"jasmonate responsive". This term is no longer recited in the claims. However, while this term has been deleted, applicants do not disclaim this embodiment. Accordingly, applicants respectfully request that the rejection be withdrawn.

In view of the present amendment and the foregoing Remarks, therefore, applicants believe that the present application is in condition for allowance at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON


Philip A. DuBois, Reg. No. 50,696
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

PD/fb